



0000159448

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

JAN 13 2015

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL

2015 JAN 13 PM 1 54

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
CIRCLE CITY WATER COMPANY, L.L.C. FOR
APPROVAL TO DELETE PORTIONS OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY AND TO DELETE A
REQUIREMENT SET FORTH IN DECISION NO.
68246.

DOCKET NO. W-03510A-13-0397

ORIGINAL

PROCEDURAL ORDER
(Vacates Procedural Schedule)

BY THE COMMISSION:

On November 19, 2013, Circle City Water Company, L.L.C. ("Circle City" or the "Company") filed with the Arizona Corporation Commission ("Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") and to delete the requirement for Circle City in its next rate case filing to demonstrate that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area, pursuant to Decision No. 68246 (October 25, 2005). Circle City's application requests deletion of portions of its CC&N encompassing two developments known as Lake Pleasant 5000 ("LP5K") and Warrick 160. Circle City's application states that the developments are not viable and that service in the CC&N area will not be necessary in the foreseeable future.

On December 11, 2013, LP5K filed an Application for Leave to Intervene, stating that its development partners own the property Circle City wishes to delete and that LP5K had entered into a Water Facilities Agreement ("WFA") with Circle City under which LP5K has paid \$67,782.61 to Circle City.

On December 31, 2013, by Procedural Order, intervention was granted to LP5K.

On January 9, 2014, Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), filed an Application for Leave to Intervene, stating that MRT is an owner of the development master plan known as LP5K and that MRT's development partners

1 entered into a WFA with Circle City under which MRT has paid \$67,782.61 to Circle City.

2 On March 12, 2014, by Procedural Order, intervention was granted to MRT.

3 On September 29, 2014, LP5K filed a Notice of Filing a letter from the principals of LP5K to
4 Circle City.

5 On October 17, 2014, the Commission's Utilities Division ("Staff") filed a Staff Report,
6 recommending denial of the Company's application to delete portions of its CC&N, but
7 recommending approval of deletion of the requirement regarding the new water facilities contained in
8 Decision No. 68246.

9 On October 21, 2014, Staff filed an amended Staff Report, correcting typographical errors
10 contained within the report. Staff's recommendations remained unchanged.

11 On October 23, 2014, Circle City filed a Motion and Request for Procedural Conference,
12 requesting that the matter be set for hearing and that other procedural deadlines be established.

13 On October 28, 2014, by Procedural Order, a procedural conference was scheduled for
14 November 10, 2014, to discuss a procedural schedule for this matter.

15 On November 10, 2014, a Procedural Conference was held. The Company, the Intervenors,
16 and Staff ("the parties") appeared through counsel. Discussions were held regarding the appropriate
17 procedural schedule for this matter. The parties and Staff agreed to engage in settlement discussions
18 and to file an update with the Commission as to the outcome of those discussions within 30 days of
19 the procedural conference. The parties also agreed that this matter should be set for hearing.

20 On December 10, 2014, a Procedural Order was issued scheduling an evidentiary hearing to
21 commence on March 2, 2015; requiring the filing of direct testimony and responsive testimony by
22 January 16, 2015, and January 30, 2015, respectively; and establishing other procedural deadlines.

23 On December 19, 2014, Circle City filed a Resolution Approving Representation.

24 On December 29, 2014, Circle City filed a Status Update of Settlement Negotiations. Circle
25 City's Status Update stated that the parties had engaged in settlement negotiations; that MRT had issued
26 and signed a "good faith" "best and final" settlement proposal letter; that the settlement proposal
27 letter proffered settlement inclusive of LP5K, but was only signed by counsel for MRT; and that
28 further efforts to clarify MRT's settlement proposal remained incomplete and/or unclear. Circle

1 City's filing also stated that settlement of the issues was not precluded in the future.

2 On the same date, LP5K filed a Status Update. LP5K's Status Update indicated that there was
3 a potential to settle the issues raised in this proceeding and requested that the procedural schedule be
4 suspended to allow for further settlement discussions.

5 On January 6, 2015, Staff filed a Notice of Filing Direct Testimony.

6 On January 9, 2015, Staff filed a Response to Status Update, stating that based on the
7 representations made by the other parties regarding on-going settlement negotiations, Staff had no
8 objection to suspending the procedural schedule.

9 On January 13, 2015, Circle City docketed a response to LP5K's request to suspend the
10 procedural schedule. Circle City's stated that the Company agrees with the LP5K's request to
11 suspend the procedural schedule, but requested that the procedural schedule only be suspended until
12 January 30, 2015, and not indefinitely.

13 LP5K's request to suspend the procedural schedule in this matter to allow for further
14 settlement discussions is reasonable and should be granted, with some time limitation as requested by
15 Circle City. Additionally, the parties should be required to update the Commission on the status the
16 settlement negotiations by February 17, 2015. Further, because it is unclear whether Circle City has
17 published notice of the hearing date as set forth in the December 10, 2014, Procedural Order, the
18 March 2, 2015, hearing date shall remain in effect for the purpose of taking public comments.

19 IT IS THEREFORE ORDERED that the **hearing** scheduled to commence on **March 2, 2015,**
20 **at 10:00 a.m., shall be held for the purpose of taking public comments.**

21 IT IS FURTHER ORDERED that the all other **procedural deadlines** set forth in the
22 December 10, 2014, Procedural Order are hereby **suspended.**

23 IT IS FURTHER ORDERED that the **timeclock** in this matter is hereby **suspended.**

24 IT IS FURTHER ORDERED that **the parties** shall make a joint filing notifying the
25 Commission on the **status of their settlement discussions on or before February 17, 2015.**

26 IT IS FURTHER ORDERED that each party to this matter may opt to receive service of all
27 Procedural and Recommended Orders issued by the Commission's Hearing Division in this matter
28 via e-mail rather than U.S. Mail, as permitted under A.A.C. R14-3-107(B). To exercise this option, a

1 party shall send to hearingsdivision@azcc.gov, from the e-mail address at which the party desires to
2 receive service, an e-mail request including the name of the party on whom service is to be made and
3 the docket number for this matter. After a party receives an e-mail confirmation of its request from
4 hearingsdivision@azcc.gov, the party will receive all future Procedural and Recommended Orders
5 issued by the Hearing Division in this matter via e-mails to the address provided by the party, unless
6 and until the party withdraws its request. Service of a document via e-mail shall be considered
7 complete upon the sending of an e-mail containing the document to the e-mail address provided by a
8 party, regardless of whether the party receives or reads the e-mail containing the document.

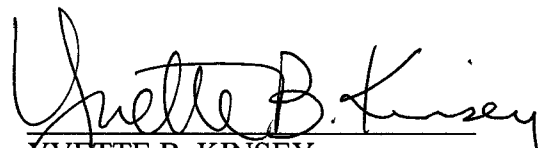
9 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
10 Communications) continues to apply to this proceeding, as the matter has been set for public hearing,
11 and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

12 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
13 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

14 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
15 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
16 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
17 all hearings, procedural conferences, and Open Meetings for which the matter is scheduled for
18 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
19 Law Judge or Commission.

20 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
21 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

22 DATED this 13th day of January, 2015.

23
24
25 
26 YVETTE B. KINSEY
27 ADMINISTRATIVE LAW JUDGE
28

Copies of the foregoing mailed/delivered
this 13th day of January, 2015 to:

Robert Hardcastle
P.O. Box 82218
Bakersfield, CA 93380-2218

Garry Hays
LAW OFFICES OF GARRY D. HAYS, PC
1702 East Highland Avenue, Suite 204
Phoenix, AZ 85016
Attorney for Lake Pleasant 5000, L.L.C.

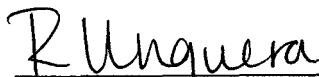
Darin P. Reber
7501 E. McCormick Parkway
Scottsdale, Arizona 85258
Counsel for Maughan Revocable Trust of 2007 and Rex G. Maughan and Ruth G. Maughan.

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

COASH & COASH, INC.
COURT REPORTING, VIDEO & VIDEOCONFERENCING
1802 N. 7th Street,
Phoenix, AZ 85006

By:


Rebecca Unquera
Assistant to Yvette B. Kinsey